

**REMARKS/ARGUMENTS**

This Amendment is in response to the Office Action of January 24, 2008, in which the Examiner (1) object to claim 18 for use of the acronym MICR without supplying an equivalent definition; (2) rejected claims 1, 4-5, 8, 19, and 24-25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,590,197 to Chen et al. ("**Chen**") in view of U.S. Patent No. 2003/0191715 A1 to Pinizzotto ("**Pinizzotto**"); rejected claims 2-3, 6, and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over **Chen** in view of **Pinizzotto**, and further in view of U.S. Publication No. 2002/0178112 A1 to Goeller et al. ("**Goeller**"); rejected claims 7 and 23 under 35 U.S.C. § 103(a) as being unpatentable over **Chen** in view of **Pinizzotto**, and further in view of U.S. Publication No. 2002/0046341 A1 to Kazaks et al. ("**Kazaks**"); rejected claims 9-11, 15, 26-28, and 32 under 35 U.S.C. § 103(a) as being unpatentable over **Chen** in view of **Pinizzotto**, and further in view of U.S. Patent No. 7,072,864 B2 to Brake, Jr. et al. ("**Brake**"); rejected claims 12-14, 17, and 29-31 under 35 U.S.C. § 103(a) as being unpatentable over **Chen** in view of **Pinizzotto** in view of **Brake**, and further in view of U.S. Patent No. 5,777,305 to Smith et al. ("**Smith**"); rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over **Chen** in view of **Pinizzotto** in view of **Brake**, and further in view of **Kazaks**; rejected claim 18 under 35 U.S.C. § 103(a) as being unpatentable over **Chen** in view of **Pinizzotto** in view of **Brake**, and further in view of **Goeller**; and rejected claim 33 under 35 U.S.C. § 103(a) as being unpatentable over **Chen** in view of **Pinizzotto** in view of **Brake** in view of **Smith**, and further in view of **Kazaks**.

By the present Amendment claims 1, 10, 19 and 27 have been amended, to more clearly recite features of the invention. Support for the amendments can be found, e.g., at paragraph 0022, in Fig. 1, and in the description pertaining to Fig. 1. Also, claim 18 has been amended to recite the full term associated with the acronym "MICR," and paragraph 0028 of the specification has been amended to correct a typographical error, as required by the Examiner.

Applicants' invention has a purpose of avoiding disadvantages of credit-based private label cards (card accounts issued by a merchant or a consortium of merchants for use only at those merchants). Such disadvantages include the customer fraudulently disputing the

legitimacy of a transaction or defaulting on their agreement to pay (see specification, paragraph 0005).

These disadvantages are overcome by the present invention with a private label card account that is debit-based, by associating the private label card account with a financial account maintained by the customer at a separate financial institution. When the private label card is used for conducting a transaction, the identifier for the private label card account is used to identify the financial account, where a debit is made for the cost of the private label card transaction.

It is respectfully submitted that the cited references do not teach Applicants' invention, either alone or as combined.

**Chen** (the primary reference) discloses a cyber wallet (such as a smart card) that carries account or personal information relating to a credit or debit card, with the information encrypted in the wallet. When the wallet is used, an authorization ticket is created using the encrypted information, with the merchant adding merchant transaction information to the ticket (col. 5, lines 50-55). The ticket is provided by the merchant to an account servicer that uses a decryption key to decrypt the account information to approve the transaction (col. 6, lines 48-54). Thus, the account information is secure since the merchant does not have access to the account information, other than in encrypted form (col. 5, lines 58-60).

**Chen** has been combined with **Pinizzotto** in order to reject Applicants' claims. **Pinizzotto** discloses features similar to those of **Chen**, and has a similar purpose. Namely, consumer card data and personal data (e.g., a signature) is encrypted at a customer's terminal 10 and sent to a processing center 13 when a customer wants to order products from a merchant having terminals 12. The order is processed so that the merchant does not receive the card data, and the card data is transmitted only to the processor in encrypted form, avoiding unsecured access to the information by the merchant or others. The Examiner appears to rely primarily on **Pinizzotto** for its mention that a purchase card could be a "private label card," as well as a credit card, debit card, or gift card. The Examiner states that a "private label card as taught by **Pinizzotto** would be an obvious variant of any credit or debit card disclosed in **Chen**."

Applicants respectfully submit that **Chen** and **Pinizzotto** as combined not only fail to disclose various features of Applicants' invention, but as combined would actually teach away from Applicants' invention

While Applicants believe the claims as originally presented are distinguishable, independent claims 1, 10, 19 and 27 have been amended to further emphasize features of the claims that are different from the cited references.

As to the features of the claims that are not taught by the references, claim 1 recites (among other things), a method including:

"receiving, at a payment network, a first information packet from a merchant, the first information packet including a cost of a financial transaction between the merchant and a customer and *a private label card account identifier* presented by the customer as a payment for the financial transaction, the private label card *being issued by one of the merchant and a merchant consortium* that includes the merchant, and *being a form of payment accepted only by the merchant or merchant consortium*;

*using the a private label card account identifier to determine*, with the payment network, account information that identifies *a financial account maintained by the customer at a financial institution that is separate from the merchant and merchant consortium* and that identifies authorization information that allows debit access to the identified financial account;

generating, at the payment network, a second information packet comprising the transaction information, the account information, and the authorization information; and

transmitting from the payment network, the second information packet to the financial institution with *a request to perform a debit transaction from the identified financial account* for the cost of the financial transaction" (emphasis added).

While **Chen** and **Pinizzotto** disclose features of traditional credit and debit card transactions where card information identifies the single account against which a transaction is to

be posted, the present invention has two account organizations, one being the "merchant" (or "merchant consortium") which issues the card and where the card is accepted, and the other being the "financial institution" maintaining a customer account against which the cost of the private label card transaction is debited.

In particular, neither **Chen** nor **Pinizzotto** disclose both the use of a "private label card" account identifier and a "financial" account, where the private label card account identifier is presented to a merchant and used with a payment network to identify the "financial account maintained by the customer at a financial institution that is separate from the merchant and merchant consortium." While the Examiner cites **Pinizzotto** for its teaching that a private label card would "be an obvious variant of any credit or debit card" (see page 6 of the Remarks) Applicants are not merely substituting a private label card as a variant of a credit or debit card, as suggested by the Examiner. Rather, Applicants recite use of both an "identifier" for a private label card account and "account information identifying a financial account" (which in some embodiments could be either a debit card account or a credit card account), so that transactions using the private label card account identifier are debited against the financial account.

Applicants in fact believe the references as combined would teach away from Applicants' invention. As stated by the Examiner, **Pinizzotto** teaches a private label card as a variant of any credit or debit card, and thus if anything **Pinizzotto** would merely teach substituting a private label card account for the credit or debit card account in **Chen**, so that a private label card account transaction is simply debited against the private label card account rather than a separate financial account. In Applicants' invention, a private label card is used in addition to a financial account.

The Examiner further applies **Goeller**, **Kazaks**, **Brake**, and **Smith** in rejecting some of the claims, but these references likewise do not disclose the use of both a private label card account and a financial account, and thus claim 1 is distinguishable therefrom.

The other independent claims recite limitations similar to claim 1 are believed allowable for the same reasons.

Dependent claims 2-9, 11-17, 20-26 and 27-33 each recite limitations in addition to their respective patent claims, and are thus believed allowable for at least the same reasons as stated above.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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